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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

KLOOSTERBOER INTERNATIONAL )  
FORWARDING LLC and ALASKA )  
REEFER MANAGEMENT LLC, )

Plaintiffs, )

vs. )

UNITED STATES OF AMERICA, )  
U.S. DEPARTMENT OF HOMELAND )  
SECURITY, U.S. CUSTOMS AND )  
BORDER PROTECTION, and TROY A. )  
MILLER, U.S. Customs and Border )  
Protection Acting Commissioner, in his )  
official capacity, )

Defendants. )

Case No.: 3:21-cv-00198-SLG

## **DECLARATION OF MICHAEL K. TOMENGA**

Pursuant to 28 U.S.C. § 1746, I, Michael K. Tomenga, declare as follows:

1. I am an attorney licensed to practice law in the District of Columbia since 1978.
2. From 1978 to 1984, I was employed as an attorney in the Office of Regulations and Rulings (OR&R) of the U.S. Customs Service, now called Regulations & Rulings and U.S. Customs and Border Protection (Customs), respectively.
3. During my employment with OR&R, I worked in the Carriers, Drawback & Bonds Branch; the Tariff Classification Branch; and the Penalties Branch.
4. I am a member of the law firm Neville Peterson LLP and practice in its Washington, DC office.
5. I have personal knowledge of the facts set forth in this declaration.
6. On October 1, 2021, on behalf of Kloosterboer International Forwarding LLC, and in accordance with 19 U.S.C. § 1618 and 19 C.F.R. Part 171, I submitted a Petition for relief against Customs penalty claims asserted in Jonesport Penalty Case Nos. 2021-0122-300235-01, 2021-0122-300301-01, and 2021-0122-300303-01. In accordance with our standard practice acceptable to Customs during the COVID pandemic and since the anthrax assault via U.S. Postal Service mail on officials in Washington DC in 2001, I filed a portable document format of the Petition and Exhibits by electronic mail (“email”) and sent a hard copy by FedEx to the Customs Fines, Penalties and Forfeitures Officer in Portland, Maine (“Portland FP&F Officer”).
7. I sent courtesy copies of the Petition and Exhibits by email to the Portland FP&F Officer’s supervisory officials, the Chief, Penalties Branch and the Director, Border Security and Trade Compliance Division, at Customs Headquarters. In addition, upon the

recommendation of the Portland FP&F officer, I emailed a courtesy copy to the email address for the Jones Act enforcement group at [portlandmainejonesact@cbp.dhs.gov](mailto:portlandmainejonesact@cbp.dhs.gov).

8. Attached is a true and accurate copy of the Petition and Exhibits 1-3 filed with Customs with the exception of a redaction of customer and vendor names that are the confidential business information and trade secrets of KIF.
9. Attached is a true and accurate copy of the email confirmations of the delivery of the Petition and Exhibits that I received. The Portland FP&F Officer advised me that he would be out of the office until next week and unable to respond by email to acknowledge receipt of a Petition filed before his return.
10. Attached is a true and accurate copy of the FedEx delivery label for the hard copy of the Petition and Exhibits sent to the Portland FP&F Officer.

I declare under penalty of perjury under the law of the United States of America that the foregoing is true and correct.

  
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Michael K. Tomenga

Dated: October 1, 2021